IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 18299 of 2004

Between:

Premlatha Nahata, W/o V.C. Nahata,
R/o 4-2-261, Mahankali Street, Secunderabad.

... PETITIONER

AND

1. The Co-operative Sub-Registrar,

   O/o the Divisional Co-operative Officer,
   Golconda Division, Hyderabad.
2. The A.P. Vardhaman (M) Co-operative Urban Bank Ltd,

   3-5-141/E/7, Geethanjali Complex, Eden Bagh,
   Ramkoti, Hyderabad.
3. The A.P. Co-operative Tribunal, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly a writ of certiorari by calling for the records relating to the order dt. 10-8-2004 passed by the Co-operative Tribunal, Hyderabad in I.A.No. 973 of 2003 in C.T.A.No. S.R.No. 4814 of 2004 and set aside the same and stay the operation of the award dt. 18-11-2002 passed by the 1st respondent in A.R.C.No. 93 of 2002, till final disposal of C.T.A. S.R.No. 4814 of 2004 on the file of the Co-operative Tribunal, Hyderabad

Counsel for the Petitioner:MR.P.ROY REDDY

Counsel for the Respondents : GP FOR COOPERATION

The Court made the following :

O R D E R:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the second respondent Bank.

The order impugned was passed by the A.P. Cooperative Tribunal, Hyderabad, pending appeal against the award passed by the 1st respondent in A.R.C.No.93 of 2002. The Tribunal, under the impugned order while granting interim stay of the Award under challenge, directed payment of 50% of the amount in three installments. As can be seen, the first installment of Rs.1,00,000/- was payable by 20.08.2004, the second installment of Rs.1,50,000/- was payable by 10.09.2004, and the third installment was payable by 8.10.2004. It is not in dispute that the petitioner failed to pay any one of the installments, and consequently, the property was brought to sale by way of auction.

The learned Counsel for the petitioner states that since the petitioner has already paid substantial amount towards the loan amount, and since he is willing to pay the remaining amount if reasonable time is granted if the property is sold in the meanwhile, the petitioner will be put undue hardship. The learned counsel for the second respondent Bank submits that since the petitioner failed to pay even a single installment as ordered by the Tribunal, the indulgence of this Court is not warranted.

Having regard to the facts and circumstances of the case and particularly keeping in view the fact that certain amounts have already been paid by the petitioner and the statutory appeal is pending before the Tribunal, I deem it appropriate to grant one more opportunity to the petitioner for payment of the 50% of Rs.8,65,157/- as ordered by the Tribunal.

Accordingly, the Writ Petition is disposed of granting stay of the operation of award dated 18-11-2002 in A.R.C.No.93 of 2002 including the proposed sale in E.P.No.599/03/CUB/GD pending Appeal before the third respondent Tribunal subject to the condition that the petitioner deposits 50% of Rs.8,65,157/- within four

weeks from today, failing which it is open to the respondents to proceed with the execution of the Award. The impugned order of the Tribunal dated 10-8-2004 in I.A.No.973/2004 shall stand modified accordingly. No costs.

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8th October, 2004.

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To

1) The Co-operative Sub-Registrar,

O/o the Divisional Co-operative Officer,
Golconda Division, Hyderabad.

2) The A.P. Vardhaman (M) Co-operative Urban Bank Ltd,

3-5-141/E/7, Geethanjali Complex, Eden Bagh,
Ramkoti, Hyderabad.

3) The A.P. Co-operative Tribunal, Nampally, Hyderabad.

4. Two C.Cs to the Govt.Pleader for Cooperation,

High Court buildings, Hyderabad.

5. Two C.D.copies.